

REMARKS

In the Restriction Requirement mailed April 06, 2007, the Examiner has restricted the claims to one of the following inventions under 35 U.S.C. § 121:

- I. Claims 1-17 and 19, drawn to a method for delivering a pharmaceutical via an ocular surface and a method for *locally* delivering a pharmaceutical via an ocular surface, classified in class 424, subclass 434.
- II. Claims 1-16, 18 and 20, drawn to a method for delivering a pharmaceutical via an ocular surface and a method for *systemically* delivering a pharmaceutical via an ocular surface, classified in class 424, subclass 422.

Applicant provisionally elects, with traverse, Group I (claims 1-17 and 19).

The restriction requirement is traversed on the basis that Restriction Requirements are optional in all cases. M.P.E.P. § 803. If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it arguably may include claims to distinct or independent inventions. M.P.E.P. § 803. Moreover, it is submitted that Applicant should not be required to incur the additional costs associated with the filing of multiple divisional applications in order to obtain protection for the claimed subject matter.

Applicant respectfully submits that the subject matter of the claims in Groups I and II can be efficiently and effectively searched in a single search with no additional burden placed on the Examiner. Specifically, the search of the claims in Group I (claims 1-17 and 19) would likely identify art relevant to the claims in Group II (claims 1-16, 18 and 20). Therefore, Applicant respectfully submits no additional burden would be placed on the Examiner to examine the claims of Groups I and II.

Thus, the Restriction Requirement has been properly traversed. Accordingly, reconsideration and withdrawal of the Restriction Requirement is respectfully requested.

The Examiner has further alleged that the Application contains claims directed to the

following patentably distinct species:

Alleged Species of the Bioadhesive Polymer:

- (a) Polyacrylic acid (PAA)
- (b) Sodium carboxymethyl cellulose (NaCMC)
- (c) Polyvinylpyrrolidone (PVP)

Alleged Species of the Water-Soluble, Film-Forming Polymer:

- (a) Hydroxyethyl cellulose (HEC); hydroxypropyl cellulose (HPC); hydroxypropylmethyl cellulose (HPMC); hydroxyethylmethyl cellulose (HEMC).
- (b) Polyvinylalcohol (PVA); polyethylene glycol (PEG)
- (c) Polyethylene oxide (PEO); ethylene oxide-propylene oxide (EO-PO)

Alleged Species of the Pharmaceutical:

(See Claim 11)

Applicant is required under 35 U.S.C. § 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Applicant respectfully acknowledges the Examiner's comment that upon allowance of a generic claim, that applicant will be entitled to consideration of claims to additional (non-elected) species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 C.F.R. 1.141.

Applicant provisionally elects, with traverse, polyacrylic acid as a species of bioadhesive polymer; hydroxypropylmethyl cellulose (HPMC) as a species of water-soluble, film-forming polymer; and antiglaucoma agent as a species of pharmaceutical. Applicant submits that Applicant is entitled to examination of a reasonable number of species, and that election of species is for the convenience of the Examiner in initiating the search.

Applicant respectfully submits that additional species should be considered as required under M.P.E.P. § 803.02, if a prior art search of the elected species turns up no relevant prior art.

RESPONSE TO RESTRICTION REQUIREMENT

Serial Number: 10/706,603

Filing Date: November 12, 2003

Title: ADHESIVE BIOERODIBLE OCULAR DRUG DELIVERY SYSTEM

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The Examiner is invited to contact Applicant's Representative at the number given below if there are any questions regarding this Response or if prosecution of this application may be assisted thereby.

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CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 359-3275 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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By their Representatives,

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Date May 7, 2007

By Michael P. Horyath
Michael P. Horyath
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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 7th day of May 2007.

Shawn M. Rose
Name

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Signature